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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,693	04/02/2004	Makoto Shiomi	12480-000038/US	9743

30593 7590 06/12/2007  
HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON, VA 20195

EXAMINER
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ABDULSELAM, ABBAS I

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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06/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,693	<b>Applicant(s)</b> SHIOMI ET AL.	
	<b>Examiner</b> Abbas I. Abdulsalam	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-125 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-26, 29-33 and 36-125 is/are allowed.
- 6) ☒ Claim(s) 27, 28, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                                  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/22/06, 10/30/06, 07/01/04, 04/02/04</u> | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1-26, 29-33 and 36-125 are allowed.

### **Reasons for Allowance**

2. The following is an examiner's statement of reasons for allowance:

Nagao (USPN 6667815) teaches as shown in FIGS. 2 and 3, a sharpness enhanced image I.sub.S and a smoothed image I.sub.L are first created from the original image I.sub.0 for each color and each pixel in the sharpness enhancing subsection 24 and the smoothing subsection 26, respectively, and fine image data .DELTA.I.sub.EG in which both edges and grain (noise) exist is extracted in the edge/grain component extracting subsection 28. Nagao also teaches a color/tone processing section 18 performing color conversion or color correction (including gradation conversion or correction on the image data inputted from the image input apparatus 12 so that the color and tone (gradation) thereof can be appropriately reproduced in the image output apparatus 16.

Regarding claims 1, 25, 29, 36, 41, 43, 79, 86 and 119, Nagao does not teach a driving device of an image display device, comprising: tone conversion means for converting first tone data indicative of a current tone of each pixels into second tone data, and storage means for storing current second tone data until next time, and correction means for correcting the current second tone data, in accordance with previous second tone data read out from the storage means,

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so as to facilitate tone transition from the previous second tone data to the current second tone data.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005) Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on

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some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationship between the computer program and the rest of the computer which permits the computer programs functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

4. Claim 27-28 and 34-35 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 27 and 34 define “a program causing a computer to function” embodying functional descriptive material. However, the claims do not define a computer –readable medium or memory and is thus non-statutory for that reason (i.e., “when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized-Guidelines Annex IV). That is, the scope of the presently claimed “a program causing a computer to function” can range from paper on which

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the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer readable medium" or equivalent in order to make the claim statutory, any amendment to the claim should be commensurate with its corresponding disclosure.

Claims 28 and 35 define "a storage medium storing a program which causes a computer to function " embodying functional descriptive material. However, the claims do not define a computer -readable medium or memory and is thus non-statutory for that reason (i.e., "when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized - Guidelines Annex IV). That is, the scope of the presently claimed "a storage medium storing a program" can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer readable medium" or equivalent in order to make the claim statutory, any amendment to the claim should be commensurate with its corresponding disclosure.

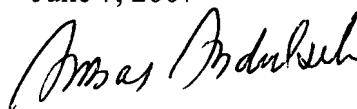
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abbas I. Abdulsalam whose telephone number is 571-272-7685. The examiner can normally be reached on from 9:00 A.M. to 5:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abbas I Abdulsalam  
Examiner  
Art Unit 2629  
June 7, 2007

A handwritten signature in black ink, appearing to read 'Abbas I Abdulsalam', is written over the typed name and date.